MONTANA LEGISLATIVE HISTORY

Chapter 436 1981

Bill H _____ S 139 Original bill & history ✓ C

H. Committee on Natural Resources			S. Committee on Natural Resources (No Status Sheet)		
Hearing Date(s)	Mar 26	✓ C	Hearing Date(s)	Feb 02	✓ C
	Mar 28	✓ C		Feb 13	✓ C
		C			C
		C			C
Date Out	Mar 28	✓ C		Feb 13	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

ACTION: 4/6, SIGNED
CHAPTER 271

SB 138 -- DOVER, M. ANDERSON, HAFFERMAN, THOMAS -- AMENDING 90-5-101 TO PROVIDE FOR INDUSTRIAL DEVELOPMENT PROJECT FINANCING OF...
FISCAL NOTE: REQUIRED
INTRODUCED: 1/15
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/15
HEARING: 2/2
REPORT: 2/16, DO PASS AS AMENDED
2ND READING: 2/19, DO PASS
3RD READING: 2/21, YEAS: 48; NAYS: 0

TRANSMITTED TO HOUSE: 2/21
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 2/23
HEARING: 3/26
REPORT: 3/28, BE CONCURRED IN
2ND READING: 3/30, YEAS: 85; NAYS: 4
3RD READING: 3/31, YEAS: 87; NAYS: 9

RETURNED TO SENATE: 3/31

TRANSMITTED TO GOVERNOR: 4/8/81
ACTION: 4/10, SIGNED
CHAPTER 318

SB 139 -- DOVER, M. ANDERSON, HAFFERMAN, THOMAS -- AUTHORIZING THE SALE OF ELECTRICITY FROM QUALIFYING SMALL POWER PRODUCTION FACILITIES TO UTILITIES.
FISCAL NOTE: REQUIRED.
INTRODUCED: 1/15
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/15
HEARING: 2/2
REPORT: 2/17, DO PASS AS AMENDED
2ND READING: 2/19, DO PASS
3RD READING: 2/21, YEAS: 48; NAYS: 0

TRANSMITTED TO HOUSE: 2/21
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 2/23
HEARING: 3/26
REPORT: 3/28, BE CONCURRED IN, AS AMENDED
2ND READING: 3/31, YEAS: 76; NAYS: 17
ON MOTION, 3/31, RULES SUSPENDED AND PLACED ON 3RD READING.
3RD READING: 3/31, YEAS: 75; NAYS: 21

RETURNED TO SENATE WITH AMENDMENTS: 3/31
2ND READING: 4/10, BE CONCURRED IN
ON MOTION, 4/11, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/11, YEAS: 48; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/15/81
ACTION: 4/20, SIGNED
CHAPTER 436

SB 140 -- DOVER, M. ANDERSON, HAFFERMAN, THOMAS -- AMENDING 15-6-135 TO CLASSIFY NEW QUALIFYING SMALL POWER PRODUCTION FACILITIES AS CLASS 6 PROPERTY.
FISCAL NOTE: REQUIRED
INTRODUCED: 1/15
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/15

SENATE BILL NO. 139

INTRODUCED BY DOVER, M. ANDERSON, HAFFERMAN, THOMAS

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

IN THE SENATE

January 15, 1981	Introduced and referred to Committee on Natural Resources.
January 16, 1981	Fiscal note requested.
January 21, 1981	Fiscal note returned.
February 17, 1981	Committee recommend bill do pass as amended. Report adopted.
February 18, 1981	Bill printed and placed on members' desks.
February 19, 1981	Second reading, do pass.
February 20, 1981	Correctly engrossed.
February 21, 1981	Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.

IN THE HOUSE

February 23, 1981	Introduced and referred to Committee on Natural Resources.
March 28, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 30, 1981	On motion rules suspended and bill allowed to be transmitted on 71st legislative day. Motion adopted.
March 31, 1981	Second reading, pass consideration.
	On motion to put back on second reading this day. Motion adopted.
	Second reading, concurred in.

March 31, 1981	On motion rules suspended and bill placed on third reading this day.
	Third reading, concurred in as amended. Ayes, 75; Noes, 21.

IN THE SENATE

April 1, 1981	Returned from House with amendments.
April 3, 1981	Second reading, pass consideration.
April 4, 1981	On motion, consideration be passed for the day.
April 10, 1981	Second reading, amendments concurred in.
April 11, 1981	Third reading, amendments concurred in. Ayes, 48; Noes, 0. Sent to enrolling.
	Reported correctly enrolled.

Senate BILL NO. 139

INTRODUCED BY Senator Mike Anderson, Hafferman, Thomas

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE SALE OF ELECTRICITY FROM QUALIFYING SMALL POWER PRODUCTION FACILITIES TO UTILITIES UNDER RATES AND CONDITIONS MUTUALLY AGREED UPON OR ESTABLISHED BY THE PUBLIC SERVICE COMMISSION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [this act], the following definitions apply:

(1) "Commission" means the Montana public service commission.

(2) "Utility" means any public utility supplying electricity and regulated by the commission.

(3) "Qualifying small power production facility" means a facility that:

(a) produces electricity by the use, as a primary energy source, of biomass, waste, water, or other renewable resource, or any combination of those sources;

(b) has a power production capacity that together with any other facilities located at the same site, is not greater than 80 megawatts; and

LC 0345/01

(c) is owned by a person not primarily engaged in the generation or sale of electricity.

Section 2. Generation and sale of electricity by qualifying small power production facility. (1) A qualifying small power production facility may generate electricity from the sources described in [section 1(3)(a)] and may contract for the sale of that electricity with a utility.

(2) A qualifying small power production facility may not engage in the distribution of the electricity it generates.

Section 3. Required sale of electricity under rates and conditions prescribed by commission. (1) If a qualifying small power production facility and a utility are unable to mutually agree to a contract for the sale of electricity or a price for the electricity to be purchased by the utility, the commission shall require the utility to purchase the electricity under rates and conditions established under the provisions of subsection (2).

(2) The commission shall determine the rates and conditions of the contract upon petition of a qualifying small power production facility or a utility or during a rate proceeding involving the review of rates paid by a utility for electricity purchased from a qualifying small power production facility. The commission shall render a decision within 120 days of receipt of the petition or

INTRODUCED BILL

SB 139

before the completion of the rate proceeding. The rates and conditions of the determination shall be made according to the standards prescribed in [section 4].

Section 4. Standards for determination of rates and conditions. (1) The commission shall determine the rates and con itions of the contract for the sale of electricity by a qualifying small power production facility according to the standards in subsections (2) through (4).

(2) Long term contracts for the purchase of electricity by the utility from a qualifying small power production facility shall be encouraged in order to enhance the economic feasibility of qualifying small power production facilities.

(3) The rates to be paid by a utility for electricity purchased from a qualifying small power production facility shall be established with consideration of the availability and reliability of the electricity produced.

(4) The commission may set these rates by use of any of the following methods:

(a) the levelized avoided cost over the term of the contract;

(b) the cost of production for the qualifying small power production facility plus a just and reasonable return; or

(c) any other method that will promote the development

of qualifying small power production facilities.

-End-

STATE OF MONTANA

REQUEST NO. 115-81

FISCAL NOTE

Form BD 15

In compliance with a written request received January 16, 19 81, there is hereby submitted a Fiscal Note for SB-139 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation:

An act to authorize the sale of electricity from qualifying small power production facilities to utilities under rates and conditions mutually agreed upon or established by the Public Service Commission.

Assumptions:

(1) One hearing per year for each of the three (3) major electrical distribution companies.

(2) An average of ten (10) petitions per year of qualifying small power procedures.

(3) The agency requests 1 FTE, Economist, Grade 15.

(4) Clerical and hearings expenses will be absorbed from present budget.

Revenue & Expenditure Impact:

State	FY 82	FY 83
Revenue	0	0
Expenditures		
Personal Services	$21,860	$22,314
Operating Exp	3,600	2,710
Net Effect	$25,460	$25,024

Cost over the biennium is $50,484.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-21-81

MINUTES OF MEETING
SENATE NATURAL RESOURCES
February 2, 1981

The seventh meeting of the Natural Resources Committee was called to order by Senator Harold Dover, Chairman, at 1:00 P.M., on the above date in Room 405 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SB 229:

AN ACT TO PROVIDE FOR HYDROELECTRIC POWER GENERATION AT APPROPRIATE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION WATER PROJECTS; PROVIDING FOR THE LEASE OF SUCH PROJECTS FOR THE PURPOSE OF POWER GENERATION; SPECIFICALLY AUTHORIZING THE CONSTRUCTION AND OPERATION OF SUCH FACILITIES BY THE DEPARTMENT IF NO LEASE IS CONSUMMATED; AND ESTABLISHING THE METHOD OF SALE OF POWER GENERATED AT SUCH FACILITIES.

Senator Turnage, District #46, presented this bill to the committee. He advised that the bill would require the Department of Natural Resources to make a study and report as to the possibility of developing hydroelectric generating facilities in state water projects. If the project seems feasible then a lease will be made out. The Department may not sell power generated at a facility except to a public utility or a rural electrical cooperative, organized in Montana and selling power to Montana customers. He requested Leo Barry, Department of Natural Resources, to testify on behalf of this bill and to present amendments.

Leo Barry, Department of Natural Resources, reviewed this bill and supports it as it will provide a reasonable approach to solving the need to repair some of the state owned projects to utilize existing hydroelectric capabilities on state owned projects. This does not mean that the Department of Natural Resources will plan to develop generating facilites on its own. Mr. Barry furnished written testimony and amendments proposed for this bill. (copy attached)

Bill Opitz, PSC, supports this bill with a request that it be amended on page 7, line 23 by striking the word "levelized" before the phrase "avoided cost".

There being no other proponents to this bill Chairman Dover asked for opponents.

Senator Elliott questioned that there was not a fiscal note attached to the bill.

Senator Turnage said that he could ask for a fiscal note.

Senator Turnage closed by saying that the amendments suggested would be helpful to the bill, other than that the state be barred or taken out.

CONSIDERATION OF SB's 138, 139, 140 AND 196:

SB 138 - AN ACT PROVIDING FOR INDUSTRIAL DEVELOPMENT PROJECT FINANCING OF SMALL-SCALE HYDROELECTRIC FACILITIES

SB 139 - AN ACT TO AUTHORIZE THE SALE OF ELECTRICITY FROM QUALIFYING SMALL POWER PRODUCTION FACILITIES TO UTILITIES UNDER RATES AND CONDITIONS MUTUALLY AGREED UPON OR ESTABLISHED BY THE PUBLIC SERVICE COMMISSION

SB 140 - AN ACT TO CLASSIFY NEW QUALIFYING SMALL POWER PRODUCTION FACILITIES AS CLASS FIVE PROPERTY; INCREASING THE PERIOD OF CLASSIFICATION FOR PROPERTY USED IN THE PRODUCTION OF GASOHOL

SB 196 - AN ACT TO MODIFY THE PENALTIES FOR DAM BREACH

Chairman Dover turned the meeting over to Vice Chairman Etchart so that he could present these bills. Senator Dover explained that these bills were designed to provide incentive to develop Montana's renewable energy resources and are specifically directed toward small-scale hydro development. A copy of Senator Dover's written statement is attached.

Vice Chairman Etchart asked for proponents.

Bill Opitz, Public Service Commission, supports these bills but has prepared amendments to SB 139, copy attached. The amendments would give a small group of people the right to form a sort of cooperative of neighbors to distribute the electricity between themselves.

Leo Barry, Department of Natural Resources, supports these bills but questions the criteria of 80 megawatts. This is inconsistent with Montana laws, which defines a major operation as 50 megawatts.

Bob Fitsgerald, U. S. Windpower, supports these bills and would like "wind facilities" amended into SB 138, to be included with small scale hydroelectric facilities.

Ann Wilsnack, Alternative Energy Resources Organization, is in favor of these bills and a copy of her written statement is attached.

Don Snow, Environmental Information Center, supports these bills but feels the 80 megawatts should be lowered to 50 megawatts to be comparable with federal legislation on hydro planning.

There being no opponents, Vice Chairman Etchart asked for questions from the committee.

Senator Hafferman stated that we need energy in the United States, so why hold it at 50 megawatts.

Senator Elliott asked any of the witnesses how these bills would fit in with what federal programs we have.

Leo Barry said SB 139 complies with the federal language and the other three bills are state laws.

Senator Dover said that two of the bills were for incentive, one bill making no penalty clause and SB 139 lines up with federal policy.

Senator Van Valkenburg asked Leo Barry what problems would arise if we have a 80 megawatt limit on small skale hydro and 50 megawatt limit on major facilities.

Leo Barry said that it would not cause a problem or inconsistency in the act, the only problem would be in being consistent with the state law.

Senator Keating asked Mr. Opitz to explain "avoided cost".

Mr. Opitz explained that avoided costs means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source, and which are approved by the Commission.

Senator Dover appointed a sub-committee to work these bills together with Senator Turnage's bill. The committee will consist of - Senator Ryan, Senator Brown, Senator Manley, Senator Keating, and Senator Dover, with Senator Manley as head of the committee.

EXECUTIVE SESSION - DISPOSITION OF SB 80: Senator Van Valkenburg talked with the Director of EPC and basically there will be no regulations with respect to peat if we pass this bill in its present form. This may conflict with consitutional provisions requiring reclamation of all lands.

ROLL CALL

NATURAL RESOURCES COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/2/81

NAME	PRESENT	ABSENT	EXCUSED
Harold Dover, Chairman	✓		
Mark Etchart, Vice Chairman	✓		
Thomas Keating	✓		
Roger Elliott	✓		
Larry Tveit	arrived late ✓		
Jesse O'Hara	✓		
John Manley	✓		
William Hafferman	✓		
Steve Brown	✓		
Dave Manning	✓		
Patrick Ryan	✓		
Fred Van Valkenburg	✓		

Each day attach to minutes.

Proposed Amendments to SB 139

1. Page 1.
Following: line 18
Insert: "(3) electric cooperative means a rural electric cooperative organized under the laws of Montana, or a foreign corporation admitted hereunder to do business in Montana."
Renumber subsequent subsections in Section 1.

2. Page 2, line 8.
Following: "may"
Strike: "not engage in the distribution of the electricity it generates."
Insert: "generate electricity from the sources described in [section 1(3)(a)] and may contract for the sale of that electricity with an electric cooperative under terms and conditions mutually agreed upon between the parties and in compliance with the rules and regulations established by PURPA."

DATE 2/2/81

COMMITTEE ON Natural Resources BILL NO. 139

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Check One: Oppose
Bill Opitz	PSC	X	
Rick Hodson			
Ted Berry	DNRC	✓	
[illegible]	RED 4 RTC's		
[illegible]	DNRC		
Karen Strickler	LWV Montana		
[illegible]	NPRO		
[illegible]	AERO		
[illegible]	DNRC		

(Please leave prepared statement with Secretary)

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MAY 5 1981
OF MONTANA

MINUTES OF MEETING
SENATE NATURAL RESOURCES
FEBRUARY 13, 1981

The eleventh meeting of the Natural Resources Committee was called to order by Senator Harold Dover, Chairman, at 12:30 P.M., on the above date in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Manning.

Senator Stimatz, District #43, presented a senate bill for consideration as a committee bill. The bill is entitled - AN ACT PROVIDING FOR THE DEFINITION OF "GEOLOGY", "GEOLOGIST", "PROFESSIONAL GEOLOGIST", AND "CERTIFIED PROFESSIONAL GEOLOGIST"; PROVIDING THAT CERTAIN REPORTS CONTAINING GEOLOGICAL MATERIAL MUST BE PREPARED OR APPROVED BY A PROFESSIONAL GEOLOGIST OR CERTIFIED PROFESSIONAL GEOLOGIST. Senator Stimatz asked Mr. Groff to give a statement in support of the bill.

S. L. Groff, State Geologist, said that there is a movement in this country to register geologists. This bill would recognize geologists for what they are, giving a definition of Geology, Geologist, Professional Geologist and Certified Professional Geologist. There is an amendment proposed to this bill, a copy is attached.

Senator O'Hara made a motion that we present this bill as a committee bill. The motion passed unanimously.

CONSIDERATION OF SB 376 and SJR 14:

> AN ACT REVISING AND CLARIFYING THE MONTANA MAJOR FACILITY SITING ACT TO INCREASE THE EXEMPTION LIMIT FOR AN ADDITION TO A FACILITY; REVISING THE DEFINITION OF A FACILITY. . .
>
> A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE ASSIGNMENT OF AN APPROPRIATE INTERIM COMMITTEE OF A STUDY OF VARIOUS ELEMENTS OF THE MONTANA MAJOR FACILITY SITING ACT.

Senator Steve Brown, District #15, presented these bills to the committee. Last session he was on a sub-committee that worked on amendments to the Major Facility Siting Act. He is aware of concerns about the Major Facility Siting Act and of all the controversy over the way in which the siting law problems are being handled. This bill is an attempt to deal with obvious problems with the Major Facility Siting Act and the resolution deals with the problems that need some study and deliberation before they can be addressed. Senator Brown went through the

DISPOSITION OF SB 139: Chairman Dover made a motion that we accept the amendments presented at our meeting on SB 139. The motion passed unanimously.

Senator Keating made a motion that we insert the word "wind," following the word "water," on page 1, line 21. The motion passed unanimously.

Senator Keating made a motion that on page 3, line 20, following "the" the word "levelized" be deleted. The motion passed unanimously.

Senator Van Valkenburg made a motion that we strike 80 megawatts and insert 50 megawatts on page 1, line 25.

Senator Elliott said that we would not be able to make an addition to an existing 50 megawatt plant. He recommended that we leave it at 80 megawatts.

Senator Van Valkenburg withdrew his motion.

Senator Keating made the motion that SB 139 do pass as amended. The motion passed unanimously.

DISPOSITION OF SB 140: Senator Keating made a motion that following the word "water,", the word "wind," be inserted on page 4, line 14. The motion passed unanimously.

Senator Manley made a motion that SB 140 do pass as amended. The motion passed with a vote of 10 for and 1 opposed. Senator Elliott voted no to this motion.

DISPOSITION OF SB 196: Senator Etchart made a motion that SB 196 do pass. The motion passed unanimously.

RECONSIDERATION OF SB 140: Senator Ryan made a motion to reconsid SB 140. The motion passed unanimously.

Senator Van Valkenburg said there could be a single facility that was 80 megawatts.

Senator Keating said a new plant should be limited to 50 megawatts

Senator Dover suggested making a total of 80 megawatts with no one facility greater than 50 megawatts.

Senator Ryan said this would give a five year tax break on a major facility.

Senator Dover said we could get Katherine to fix it so it goes up to 80 megawatts, 50 megawatts if it is a completely new plant and 80 megawatts if it is a situation on an existing facility.

ROLL CALL

NATURAL RESOURCES COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/13/81

NAME	PRESENT	ABSENT	EXCUSED
Harold Dover, Chairman	✓		
Mark Etchart, Vice Chairman	✓		
Thomas Keating	✓		
Roger Elliott	arrived ✓		
Larry Tveit	✓		
Jesse O'Hara	✓		
John Manley	✓		
William Hafferman	✓		
Steve Brown	✓		
Dave Manning		✓	
Patrick Ryan	✓		
Fred Van Valkenburg	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

February 13, 19 81

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration SENATE Bill No. 139

Respectfully report as follows: That SENATE Bill No. 139

be amended as follows:

1. Title, line 9.
Following: "COMMISSION"
Insert: "OR TO ELECTRIC COOPERATIVES UNDER TERMS AND CONDITIONS MUTUALLY AGREED UPON AND IN COMPLIANCE WITH THE PUBLIC UTILITY REGULATORY POLICIES ACT"

2. Page 1
Following: Line 15
Insert: "(2) "Electric cooperative" means a rural electric cooperative organized under the laws of Montana, or a foreign corporation admitted to do business in Montana."
Renumber subsequent subsections in Section 1.

3. Page 1, line 21.
Following: "water,"
Insert: "wind,"

JRf

~~XXXXXX~~
~~DO PASS~~

(continued)

Chairman.

STATE PUB. CO.
Helena, Mont.

February 13, 19 81

4. Page 2, line 6.
Following: "section 1"
Strike: "(3)"
Insert: "(4)"

5. Page 2, line 9.
Following: "may" on line 8.
Strike: "not engage in the distribution of the electricity it generates"
Insert: "generate electricty from the sources described in [section 1(4)(a)] and may contract for the sale of that electricity with an electric cooperative under terms and conditions mutually agreed upon between the parties and in compliance with the rates and regulations established by the Public Utility Regulatory Policies Act"

6. Page 3, line 20.
Following: "the"
Strike: "levelized"

And, as so amended,
DO PASS

Mark Etchart Vice Chairman.

STATE PUB. CO.
Helena, Mont.

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 138	An act providing for industrial development project financing of small-scale hydroelectric facilities; ...	2/23/81	Dover, et.al.	3/16/81	BE CONCURRED IN	3/28/81
SB 139	An act to authorize the sale of electricity from qualifying small power production facilities to utilities under rates and conditions ...	2/23/81	Dover, et.al.	3/26/81	AS AMENDED BE CONCURRED IN	3/28/81
SB 229	An act to provide for hydroelectric power generation at appropriate Department of Natural Resources and Conservation water projects; ...	2/23/81	Turnage, et.al.	3/16/81	BE CONCURRED IN BE NOT CONCURRED IN	4/13/81 3/28/81
SJR 14	...requesting the assignment to an appropriate interim committee of a study of various elements of the Mont- and Major Facility Siting Act.	3/3/81	S. Brown	4/3/81	BE CONCURRED IN	3/28/81
SJR 17	...repealing the standard adopted by the Board of Health and Environmental Sciences for fluoride on forage and ...	3/3/81	Jacobson, S. Brown, et.al.	3/25/81	TABLED	4/3/81
SB 327	An act to increase the authority of local government and landowners to alter rivers and streams and land adjacent to	3/3/81	Hafferman, Conover, et.al.	3/30/81	TABLED	4/3/81

ROLL CALL

NATURAL RESOURCES COMMITTEE

47TH LEGISLATIVE SESSION, 1981

KEY x - present
e - excused
a - absent

	MARCH				APRIL		Date							
Name	26	27	28	30	1	3	13	22						
Dennis Iverson, Ch.	x	x	x	x	x	x	x	x						
Jim Burnett, VC	x	x	a	a	x	x	x	x						
Aubyn Curtiss	x	x	x	x	x	x	x	x						
Walter Sales	e	x	e	a	x	e	e	e						
Glenn Mueller	x	x	x	x	x	x	x	x						
Ken Nordtvedt	a	a	x	a	a	e	e	x						
Tom Asay	x	x	x	x	x	x	x	x						
Verner Bertelsen	e	x	x	x	x	x	x	x						
John Harp	x	x	e	x	x	x	x	x						
Audrey Roth	x	x	x	x	x	e	e	x						
Chuck Cozzens	x	x	x	x	x	e	e	e						
Joe Quilici	e	x	e	e	x	e	e	e						
Herb Huennekens	x	x	x	a	a	x	x	x						
Michael Keedy	x	x	x	x	x	x	e	x						
Art Shelden	x	x	x	x	x	x	x	e						
Dave Brown	x	x	x	x	x	x	x	x						
Hubert Abrams	x	x	x	x	x	x	x	x						
Ted Neuman	e	x	x	x	x	e	e	x						
Marjorie Hart	x	x	x	x	x	x	x	e						

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
MARCH 26, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Thursday, March 26, 1981, at 12:30 p.m. with CHAIRMAN DENNIS IVERSON presiding and thirteen members present (REPS. SALES, BERTELSEN, QUILICI, and NEUMAN were excused and REP. NORDTVEDT was absent).

CHAIRMAN IVERSON opened the hearing on SB 229.

SENATE BILL 229 SENATOR JEAN TURNAGE, chief sponsor, presented the bill which would provide for hydroelectric power generation at certain water projects operated by the Department of Natural Resources. It would provide for the lease of such projects for the purpose of power generation and authorize the construction and operation of such facilities by the department. This bill will focus attention on hydroelectric projects. It would be preferable to leasing the dam sites to either private individuals or R. E. A. operations.

Speaking as a proponent was LEO BERRY, Director of the Department of Natural Resources, who supported the concept of water development on private property. Lease agreements to private individuals and R. E. A.'s are preferred by the department.

REP. KATHLEEN MCBRIDE supported the bill. She stated that there is a lot of potential energy going over the dam and it should be tapped.

CHARLIE CRANE, Montana Water Developers Association, supported the bill but with some qualifications. He felt the language on page 6, line 8 should be reinserted because clear and convincing evidence must be submitted to someone and perhaps it should be the legislature.

DON JOHANNSEN, National Farm Organization, supported the bill.

There were no OPPONENTS.

SENATOR TURNAGE closed on the bill saying it is an enabling mechanism to get the process started. Using a revenue bond could be one form of financing.

During questions from the committee, REP. ROTH asked REP. MCBRIDE if this is a duplication of a bill of hers. The answer was that there are some similar qualities but that hers offers more guidance to the Department of Natural Resources.

REP. COZZENS asked MR. BERRY if this action would require additional staffing in the department. And, how many sites are involved. The answer was that the staff is available but feasibility studies require money. The state currently owns about 40 dams but fewer than 10 would qualify under this type of program.

The hearing on SB 229 closed and one on SB 138 opened.

SENATE BILL 138 SENATOR HAROLD DOVER, chief sponsor, presented the bill which would provide for industrial development project financing of small-scale hydroelectric facilities. This could provide the incentive to create power supplies in Montana. The Senate amendments make it more compatible with the environment and that is beneficial to everyone. It tries to avoid environmental impact in areas not already in use. It could also eliminate the high cost of constructing new dams. It is a reasonable type of power but financing is a problem.

LEO BERRY, Director of the Department of Natural Resources, supported the bill.

ANNE WILSNACK, A. E. R. O., supported the bill with the Senate amendments.

MARGARET MACDONALD, Northern Plains Resource Council, supported the bill. Her one concern was that 50 megawatts is still a large facility. She felt 30 or less is considered small.

SENATOR DOVER closed on the bill.

During questions from the committee, REP. COZZENS asked what difference it makes whether a dam is considered large or small. MS. MACDONALD replied that the difference can be great and that small scale should be defined.

The hearing on SB 138 closed and one on SB 139 opened.

SENATE BILL 139 SENATOR HAROLD DOVER, chief sponsor, presented the bill which would allow the sale of electricity from qualifying small power production facilities to utilities under rates and and conditions mutually agreed upon by the Public Service Commission or electric cooperatives upon mutual agreement and in compliance with PURPA. Montana needs to comply with federal regulations. This would help in compliance as well as establish rates. SENATOR DOVER proposed one amendment to add on page 2, line 7, "other than electric power from a small power production facility".

LEO BERRY, Director of the Department of Natural Resources, supported the bill with the amendment, as did ANNE WILSNACK and MARGARET MACDONALD.

There were no OPPONENTS.

SENATOR DOVER closed on the bill.

During questions, REP. COZZENS asked if the fifty thousand dollar figure on the fiscal note is accurate. SENATOR DOVER said it would cost money to administer the program. He also said the proposed FTE would be for the PSC.

The hearing on SB 139 closed and one opened on SB 141.

SENATE BILL 141 SENATOR HAROLD DOVER, chief sponsor, presented the bill which would allow the Department of Natural Resources to award loans from the Alternative Energy Research Development and Demonstration Account for commercial production. Financing is a problem because some of the alternative energy methods are not proven and this prohibits people from acquiring financing from a bank or other lending institutions. He stated that this is a loan program.

REP. KATHLEEN MCBRIDE, who is on the Alternative Energy Council, supported the bill. When the program started, commercialization was forbidden. It has gone from small operations to commercial types. People cannot find other sources of financing so they look for grants. They would be willing to borrow but cannot.

LEO BERRY, Director of the Department of Natural Resources, said this would allow the department to provide loans. This is a new industry and it should be supported.

ANNE WILSNACK and MARGARET MACDONALD favored the bill.

REP. DAVE BROWN also favored the bill.

Speaking as an opponent of the bill was JOHN ALKE, Montana Bankers Association. He felt this was not a practical approach. The state would lend some of the funds and a bank would lend the rest. Somehow the money needs to be guaranteed. If the loan is not sound, the state should not be lending the money. He also felt the state should not be in the lending business.

SENATOR DOVER closed on the bill. He felt the banks had misinterprete the bill. This is a new type industry and it needs help. The banks will simply handle the funds for the department. He asked that an amendment be added that the effective date is upon passage.

During questions from the committee, REP. COZZENS asked why the banks are being asked to carry the 90 percent part of the split. BILL GOSNELL, Department of Energy, said the banks would get the largest part of the loan, interest and service charge. The state does not want to get into the banking business.

REP. COZZENS further asked where in state law this loan program is allowed. MR. GOSNELL stated that rules would have to be established to do so.

VISITORS' REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL SB 139 Date 3/26/81

SPONSOR DOVER

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Ann Wilsnack	Helena	AEKC	X	
Lee Berry		DNRC	V	
[illegible]		Mont. Power Co.	/	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
MARCH 28, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Saturday, March 28, 1981, at 1:00 p.m. with CHAIRMAN DENNIS IVERSON presiding and fourteen members present (REP. BURNETT was absent and REPS. SALES, HARP, and QUILICI were excused).

EXECUTIVE SESSION SENATE JOINT RESOLUTION 14 REP. ROTH moved BE CONCURRED IN.

REP. SHELDEN felt the study would be expensive and the committee should know how much before making a decision. REP. BROWN said he had asked the Department of Natural Resources if the work could be accomplished by current personnel and was told that it could. However, the current personnel does not have the time to do the work.

REP. CURTISS suggested that the Environmental Quality Council do the work instead. REP. HUENNEKENS said it would have to be funded by an actual appropriation.

REP. CURTISS then moved that on page 1, line 6 "interim committee" be stricken and "Environmental Quality Council" be inserted.

REP. SHELDEN felt the council should be asked first. CHAIRMAN IVERSON said the council members will be setting priorities soon but not in time to consider this resolution.

REP. BERTELSEN felt an interim committee would be better for this study.

The motion failed with REPS. IVERSON, ASAY, BERTELSEN, HUENNEKENS, KEEDY, SHELDEN, BROWN, ABRAMS, NEUMAN, and HART opposing.

The motion BE CONCURRED IN PASSED with REPS. ASAY, BERTELSEN, ROTH, SHELDEN, NEUMAN, and HART opposing.

SENATE BILL 138 REP. BROWN moved BE CONCURRED IN. He explained that the bill allows small power projects to qualify under state revenue funding.

The motion PASSED unanimously.

SENATE BILL 139 REP. BROWN moved BE CONCURRED IN. He also moved that the amendment proposed by SENATOR DOVER be inserted. Both the bill and the amendment PASSED unanimously.

SENATE BILL 141 REP. BROWN moved BE CONCURRED IN on the bill and on an amendment which adds an effective date. The motion on the amendment PASSED.

NATURAL RESOURCES COMMITTEE AMENDMENTS TO SB 139
MARCH 28, 1981

1. Page 2, line 7.
Following: "electricity"
Insert: "other than electric power from a small power production facility"

SENATE BILL NO. 139

INTRODUCED BY DOVER, M. ANDERSON, HAFFERMAN, THOMAS

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE SALE OF ELECTRICITY FROM QUALIFYING SMALL POWER PRODUCTION FACILITIES TO UTILITIES UNDER RATES AND CONDITIONS MUTUALLY AGREED UPON OR ESTABLISHED BY THE PUBLIC SERVICE COMMISSION OR TO ELECTRIC COOPERATIVES UNDER TERMS AND CONDITIONS MUTUALLY AGREED UPON AND IN COMPLIANCE WITH THE PUBLIC UTILITY REGULATORY POLICIES ACT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [this act], the following definitions apply:

(1) "Commission" means the Montana public service commission.

(2) "ELECTRIC COOPERATIVE" MEANS A RURAL ELECTRIC COOPERATIVE ORGANIZED UNDER THE LAWS OF MONTANA, OR A FOREIGN CORPORATION ADMITTED TO DO BUSINESS IN MONTANA.

~~(2)~~(3) "Utility" means any public utility supplying electricity and regulated by the commission.

~~(3)~~(4) "Qualifying small power production facility" means a facility that:

(a) produces electricity by the use, as a primary energy source, of biomass, waste, water, WIND, or other renewable resource, or any combination of those sources;

(b) has a power production capacity that together with any other facilities located at the same site, is not greater than 80 megawatts; and

(c) is owned by a person not primarily engaged in the generation or sale of electricity OTHER THAN ELECTRIC POWER FROM A SMALL POWER PRODUCTION FACILITY.

Section 2. Generation and sale of electricity by qualifying small power production facility. (1) A qualifying small power production facility may generate electricity from the sources described in [section 1~~(3)~~(4)(a)] and may contract for the sale of that electricity with a utility.

(2) A qualifying small power production facility may ~~not engage in the distribution of the electricity it generates~~ GENERATE ELECTRICITY FROM THE SOURCES DESCRIBED IN [SECTION 1(4)(A)] AND MAY CONTRACT FOR THE SALE OF THAT ELECTRICITY WITH AN ELECTRIC COOPERATIVE UNDER TERMS AND CONDITIONS MUTUALLY AGREED UPON BETWEEN THE PARTIES AND IN COMPLIANCE WITH THE RATES AND REGULATIONS ESTABLISHED BY THE PUBLIC UTILITY REGULATORY POLICIES ACT.

Section 3. Required sale of electricity under rates and conditions prescribed by commission. (1) If a qualifying small power production facility and a utility are unable to mutually agree to a contract for the sale of electricity or

REFERENCE BILL

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a price for the electricity to be purchased by the utility, the commission shall require the utility to purchase the electricity under rates and conditions established under the provisions of subsection (2).

(2) The commission shall determine the rates and conditions of the contract upon petition of a qualifying small power production facility or a utility or during a rate proceeding involving the review of rates paid by a utility for electricity purchased from a qualifying small power production facility. The commission shall render a decision within 120 days of receipt of the petition or before the completion of the rate proceeding. The rates and conditions of the determination shall be made according to the standards prescribed in [section 4].

Section 4. Standards for determination of rates and conditions. (1) The commission shall determine the rates and conditions of the contract for the sale of electricity by a qualifying small power production facility according to the standards in subsections (2) through (4).

(2) Long term contracts for the purchase of electricity by the utility from a qualifying small power production facility shall be encouraged in order to enhance the economic feasibility of qualifying small power production facilities.

(3) The rates to be paid by a utility for electricity

purchased from a qualifying small power production facility shall be established with consideration of the availability and reliability of the electricity produced.

(4) The commission may set these rates by use of any of the following methods:

(a) the ~~levelized~~ avoided cost over the term of the contract;

(b) the cost of production for the qualifying small power production facility plus a just and reasonable return; or

(c) any other method that will promote the development of qualifying small power production facilities.

-End-

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